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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,782	02/08/2001	Frank Venegas JR.	IDS-14502/14	6741

7590 12/18/2003

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EXAMINER

VARNER, STEVE M

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 12/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/779,782

Applicant(s)

VENEGAS, FRANK

Examiner

Steve M Varner

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 1 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-21 is/are allowed.
- 6) ☒ Claim(s) 2-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2, 3, 4, 8, 9, are rejected under 35 U.S.C. 102(b) as being anticipated by Finkelstein.

Regarding claim 2, Finkelstein teaches an advertising display (Fig. 1).

Regarding claim 3, Finkelstein shows a fastener (40). (Fig. 1)

Regarding claim 4, Finkelstein shows stenciled letters (Fig. 6)

Regarding claim 8, Finkelstein shows spaced apart front and back panels and a side panel (B) connecting the sides and tops of the front and back panels, leaving a slot (28 A) open at the bottom. (Fig. 1, 6)

The front and back panels are opaque.

Regarding claim 9, Finkelstein shows the side edges smoothly transition in the top edge. (Fig. 1)

Claims 11, 12, 15, are rejected under 35 U.S.C. 102(b) as being anticipated by Muta.

Regarding claim 11, Muta shows spaced-apart front and back panels, each having opposing bottom edges, side edges, and semi-circular top edges and a side

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panel. connecting the sides and tops of the front and back panels, leaving a slot open at the bottom (Fig. 6)

Regarding claim 12, Muta shows a fastener (18) (Fig. 5).

Regarding claim 15, Muta shows smoothly transition through semi-circular side edges.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Finkelstein in view of Emert.

Regarding claim 5, Finkelstein shows the basic claimed structure. Finkelstein does not show lighting elements. Emert teaches lighting elements (Abstract). It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use lighting elements as in Emert in the structure of Finkelstein for advertising.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Finkelstein in view of Rodrigues.

Regarding claim 7, Finkelstein shows the basic claimed structure. Finkelstein does not show a chalkboard. Rodrigues teaches a chalkboard (Abstract). It would have

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been obvious to one of ordinary skill in the art at the time the present invention was made to use a chalkboard as in Rodrigues in the structure of Finkelstein for advertising.

### ***Claim Objections***

Claims 6, 10, 13, 14, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 6 is allowable for one or more magnetically mounted objects of a ferromagnetic material disposed on metallic surface.

Claim 10 is allowable for the front and back panels smoothly transition through semi-circular side edges corresponding to the tubular metal guard rail.

Claim 13 is allowable for the front and back panels including an advertising display.

Claim 14 is allowable for the front and back panels are opaque.

### ***Allowed Claims***

Claims 16-21 are allowed.

Claims 16, 19, are allowed for opaque front and opaque back panels with a semi-circular upper portion.

Claims 17, 18, depend from claim 16 and are therefore allowed.

Claims 20, 21, depend from claim 19 and are therefore allowed.

### ***Response to Arguments***

Applicant's arguments with respect to claims 2-9 have been considered but are moot in view of the new ground(s) of rejection.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Finkelstein shows a luggage handle. De Greeve shows a portable dealer license plate and advertising strip holder.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305-7687 for regular communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1113.

SV  
November 24, 2003



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600